IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 17740 of 1994

Between:

1 S.Adinarayana B.No.982224, S/o S.Nuka Raju
Hindustan Petroleum Corporation, Visakhapatnam.

2 K.Eswara Rao B.No.982239, S/o K.Adinarayana
Hindustan Petroleum Corporation, Visaka Refinery,
Visakhapatnam,

..... PETITIONER(S)

AND

1 The General Manager , Hinustan Petroleum Corporation Ltd.
Visaka Refinery , Visakhapatnam.
2 The Deputy General Manager, Personnel & Administration,
Hindustan Petroleum Corporation Ltd., Visaka Refinery, Visakhapatnam.
3 The Chief Maintenance Manager, Maintenance Dept.,
Hindustan Petroleum Corporation Ltd., Visaka Refinery, Visakhapatnam.
4 Y.Ravindranath, B.No. 982310, Senior Maintenance Technician,
Hindustan Petroleum Corporation Ltd., Visaka Refinery, Visakhapatnam.
5 A.Ramakrishna B.No. 982321, Senior Maintenance Technician,
Hindustan Petroleum Corporation Ltd., Visaka Refinery, Visakhapatnam.

6 M.G. Muralikrishna, Employment No.982432, Maintenance Technician, Maintenance
Department, Hindustan Petroleum Corpn., Ltd., Visakhapatnam.

7 S. Gopi, Employment No.981512, Maintenance Technician, Maintenance Dept., Hindustan Petroleum Corpn., Ltd., Visakhapatnam.

(Respondents 6 and 7 were impleaded as per Court order dated 20.7.2005 in WPMP No. 16573 of 1996)

....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue a writ of mandamus or other appropriate order or direction particularly one in the nature of writ, directing the respondents to promote the petitioners to the category of RW-5 with retrospective effect from 1/09/91 or any other date this Hon'ble Court deems fit and proper by declaring that promotion orders issued in favour of the respondents 4 and 5, dt. 1/09/94 as illegal and void, and pass such other order or orders as this Hon'ble Court may deem fit and proper.

Counsel for the Petitioners:MR.K.NARASIMHA CHARY

Counsel for the Respondents 1 to 3: MR.K.SRINIVASA MURTHY

Counsel for the Respondents 4 and 5: Mr. P. Veera Reddy

Counsel for the Respondents 6 and 7: Mr. K. Narasimha Chary

The Court made the following :

ORAL ORDER:

This writ petition is filed seeking a Mandamus to direct the respondents to promote the petitioners to the category of RW-5 with retrospective effect from 1.9.1991 or any other date and to declare that the promotion orders issued in favour of respondents 4 to 7 on 1.9.1994 as arbitrary and illegal.

It is the case of the petitioners that after completion of training in I.T.I. for the trade Mill Wright, the names of the petitioners were sponsored by the Employment Exchange on the requisition of the respondents to fill up the vacancies. The respondents after scrutiny and interview selected and appointed the petitioners with effect from 29.6.1984. Since there were no rules and regulations governing the

service conditions of the employees, series of representations were made and finally a memorandum of settlement was arrived at between the respondent-management and the representatives of the Union on 8.10.1985. It is stated that even under the said Memorandum of Settlement, no rules or regulations were framed for promotion from one category to the other either for the administrative staff or for the technical staff. As per para-19 of the Memorandum of Settlement, with regard to promotion policy, it was stated that the promotion policy would be discussed by the management and the representatives of the Union within a period of three months. Petitioners complain that the respondents having undertaken the responsibility of framing the rules and fixing the guidelines for promotion, failed to do so in spite of repeated representations from the respective employees/workers Unions. The uniform practice prevailing in the organization is to the effect that a workman or an employee would be eligible for promotion from RW3 to RW4 after discharging his duties successfully for a period of three years and accordingly the petitioners were also promoted to RW4 category. Petitioners state that in the seniority list prepared for filling up the Machinists posts, the name of the 1st petitioner and the 2nd petitioner were shown at Serial Nos. 12 and 13 respectively and their seniority was continued to be shown at Serial Nos. 12 and 13 even in the category of RW4. Thus, the petitioners being seniors are eligible for being promoted to the category of R.W.5 with effect from 1.9.1994 since they have completed four years of requisite service in the cadre of R.W.4. Further, there have been no adverse remarks against the petitioners and as such they are fully qualified and eligible for being promoted to the cadre of R.W.5. While so, a Departmental Promotion Committee was constituted and the Committee instead of recommending the names of petitioners 1 and 2 herein has recommended the names of Respondents 4 to 7, though they are juniors in the feeder category of R.W.4. Aggrieved by the same, petitioners filed the present writ petition.

A detailed counter-affidavit has been filed by the official respondents 1 to 3 denying the allegations made by the petitioners herein and asserting that the Departmental Promotion Committee found that though the petitioners 1 and 2 and some others have completed the eligibility criteria for promotion, they were not ready for promotion as per their Performance Appraisal Reports. The Performance Appraisal Reports of Y. Ravindranath, A.Ramakrishna, S. Adiniarayna, K. Eswara Rao and D.V.V. Seshadri Rao in the year 1993 are looked into by the Departmental Promotion Committee. Apart from this, petitioners were also issued with charge sheet dated 5.7.1993 for willful insubordination and for absenting from their places of work. They were issued with warning letters dated 16.8.1993. As per the recommendation of the Departmental Promotion Committee, the case of the respondents 4 to 7 was considered and the case of the petitioners was rejected though they are seniors in the cadre of R.W.4.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and also perused the material made available on record.

Admittedly, in the absence of any rules, the Departmental Promotion Committee was constituted for the purpose of considering promotion from R.W.4 category to R.W.5 category. The petitioners, though seniors in the category of R.W.4, the Departmental Promotion Committee when appraised their work found that they have not come up for selection. Therefore, their case was not considered. Annexure-III, i.e., at Pages 21 to 25 of the material papers would show the method of the appraisal followed in respect of each and every employee who was considered for the purpose of promotion to the post of R.W.5. As per the appraisal report, the Departmental Promotion Committee found that the work appraisal reports of both the petitioners 1 and 2 were unsatisfactory. Therefore, the Committee has rejected the case of the petitioners for being promoted to the category of R.W.5. From a perusal of Annexure

IIII, it cannot be said that the case of the petitioners was rejected only in view of some misconduct alleged against them for which they were warned to be careful in future. The Departmental Promotion Committee, in the absence of any Rules, etc., has followed the method of Performance Appraisal Reports for selection and promotion to the category of R.W.5. This can be said to be one of the fair procedure followed. The same can neither be said to be arbitrary nor illegal.

There is no illegality or infirmity committed by the respondents warranting interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merit and is liable to be dismissed.

The writ petition is accordingly dismissed. No costs.

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C.V. RAMULU,J

DATE: 20th July, 2005

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To

1 The General Manager , Hinustan Petroleum Corporation Ltd.
Visaka Refinery , Visakhapatnam.
2 The Deputy General Manager, Personnel & Administration,
Hindustan Petroleum Corporation Ltd., Visaka Refinery, Visakhapatnam.
3 The Chief Maintenance Manager, Maintenance Dept.,
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4 Two C.D. copies